



5885 Landerbrook Dr., Cleveland, OH 44124  
440-753-1490 (T) -- 440-753-1491 (F)  
www.chart-ind.com

January 18, 2002

Mr. Andrew Stephens  
Director for Steel Trade Policy  
Office of the USTR  
600-17th Street, NW  
Washington, DC 20508

Re: Section 201 9% Nickel Alloy Plate Exemption (revised)

Dear Mr. Stephens:

*The following indented text is from the document entitled "Certain Steel Products, TA-201-73 – Domestic Industry Response to Product Exclusion Requests Filed on Behalf of Bethlehem Steel Corporation, LTV Steel Company, Inc., National Steel Corporation and United States Steel LLC" dated December 5, 2001 and prepared by Dewey Ballantine LLP and Skadden, Arps, et al LLP containing the excerpted exclusion request(s) and responses from these four domestic producers. No domestic producers were specifically named in the document, but in this case there is only one potentially viable domestic producer.*

**Nine Percent Nickel Alloy Steel Plate (X-083.4)**

**Product Description:** ASTM/ASME A553, heavy steel plate of thickness 0.1875 inches and greater, quenched and tempered with extremely high strength characteristics, namely high-impact values at –196 degrees Celsius, used in the construction of tanks for the storage of cryogenic products. Imported under HTS 7224.40.3050 and 7224.40.3020. Usinor claims this product is not produced domestically in widths greater than 136" and thickness less than 0.339 inches when the plate is greater than 96 inches in width.

**Exclusion requested by:** Usinor, Arbed, and Aceralia

**Response:** [ ] makes all of the specifications and sizes noted in the request. Contrary to Usinor's claim, this product can be produced in widths greater than 136" at the [ ].

Chart acknowledges [ ]'s response. However, Chart feels the response could be misleading and is compelled to respond to avoid any administration misunderstanding during the remedy consideration.

1. Chart's primary concern is for reliable assurance of continued supply of all required sizes for the New Prague, MN and Plaistow, NH facilities which use 9% nickel alloy for the inner tank material. At this time [ ] is the only domestic supplier potentially capable and interested in manufacturing 100% of the material Chart requires.
2. Nine percent nickel alloy is difficult to manufacture, in part due to the performance requirements at cryogenic temperatures, the magnetism specification and the impact specification. [ ] has had periodic quality issues and has stated verbally on a number of occasions that they would prefer not to make thin, wide plate, but they accept the orders when business is slow. Approximately 10 years ago Chart purchased material from another domestic manufacturer who had difficulty and exited the business after continually having about 20% of its material rejected for quality reasons. .
3. Chart's past efforts to see if [ ] would supply 100% of Chart's requirements were unsuccessful. Chart has no guarantees that [ ] – although technically capable - will reasonably respond to our requirements for sizes, delivery and competitive pricing.
  - a. [ ] has declined to quote on Chart's requirements in widths greater than 136" in the past. [ ] has a rolling mill capable of widths > 136", but it is hundreds of miles from the mill where the 9% Ni is made and may not have the procedures in place to ensure the plates do not get magnetized. About 5-6% of Chart's requirements have these characteristics.
  - b. In its most recent response to a Chart RFQ, [ ] reserved the option to refuse to accept orders at the time of order placement for material less than 0.339" thick and greater than 120" wide. This is material Chart requires to manufacture bulk tanks in its line of standard products, and as such, is an unacceptable condition for Chart.



4. [ ] can produce Chart's requirements, but must use complex, multiple process methods for much of Chart's thinner material in many widths greater than 96". Historical results demonstrate a significantly higher incidence of quality and delivery issues using these methods. These processes are fundamentally more expensive and not competitive with more efficient production and make up 25-30% of Chart's requirements.
5. Chart's requirements are very small compared to [ ]'s total business. Chart has additional concerns that, depending upon the outcome of the current investigation and remedy, [ ] may have other, more profitable alloy steel business opportunities for its limited capacity than Chart's 9% Ni business. This could lead [ ] to make a sound business decision eliminating the production of 9% Ni alloy for Chart. In addition, [ ] is reorganizing under chapter 11 and Chart has no assurance that the entity emerging from reorganization will be interested or financially able to supply Chart's requirements.
6. Upgrading [ ]'s capability to produce competitively may not be a financially viable option for [ ] at this time.
7. Placing tariffs on the material Chart currently purchases from Usinor would force Chart to purchase only from [ ] for domestic manufacturing use. If [ ] subsequently decides to abandon Chart's business, Chart could potentially be unable to recover. [ ] has failed to follow through in the past on verbal commitments relating to development of specific production capabilities, processes and certifications.
8. Chart's global customers and competitors have alternative non-US suppliers and will never be compelled to purchase only from [ ]. Both our own and competitor's non-US plants can purchase 9% nickel alloy directly from Usinor and then manufacture and export the finished tanks to the US without the impact of tariffs, putting Chart's domestic facilities at an irreparable competitive disadvantage.
9. Chart's customers often solicit proposals requiring a broad range of products and product sizes. Without ready, competitively priced access to ALL required sizes, Chart would be greatly disadvantaged when competing for these global multi-product contracts.

**Conclusion:** It is Chart's opinion that this relatively thin and wide material does not fit well with [ ]'s core competencies, production processes and available capacity and equipment. Strategic sourcing best practice requires balancing quality, capability, cost and risk, which leads to the conclusion that [ ] is not the strategic partner Chart needs to be successful and preserve domestic jobs and capabilities long term.

Increasing Chart's cost of purchasing from its proven strategic partner, Usinor, by enacting tariffs on this special 9% nickel alloy will likely force Chart to close the New Prague, MN and possibly the Plaistow, NH facilities because the tariff will still not make [ ] an acceptable strategic source. Chart will need to move production offshore to ensure continued supply from Usinor at globally competitive prices. The result could easily be the loss of up to 450 direct Chart jobs in Minnesota and New Hampshire. Additional negative impact will be to further consolidate and reduce jobs throughout our supply chain with overall impact far exceeding the number of jobs preserved "on paper" by this remedy. 9% nickel makes up about 35% of the cost of a typical cryogenic bulk storage tank, so the remaining value of about \$12-13 million of direct purchased material value (supply chain) would also be lost to the domestic economy because almost all of this material is sourced domestically.

Chart wishes the USTR to understand that our business is currently severely distressed and under-performing. We are and have been doing everything we can to reduce costs, consolidate activities and remain competitive to assure our viability and preserve jobs and facilities.

Please contact me or Jay Hole directly if you have questions or would like to discuss this further at 440-753-1490.

Very truly yours,

James R. Sadowski  
President and COO  
Chart Industries

cc: Ms. Gloria Blue, USTR  
via e-mail FR0001@ustr.gov